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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,169	06/16/2000	Steven A Sunshine	18564-003610US	2166
20350	7590	12/05/2003	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			TSAI, CAROL S W	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/596,169

Applicant(s)

SUNSHINE ET AL.

Examiner

Carol S Tsai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 19-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,350,369 to Lewis et al. in view of 6,627,154 to Goodman et al.

With respect to claims 1, 7, 8, 19, and 24, Lewis et al. disclose a sensing system for identifying an analyte, the system comprising: a computer (computer shown on Fig. 1C); a first sensor array connected to said computer comprising sensors capable of producing a first response in the presence of a chemical stimulus (see col. 1, line 57 to col. 2, line 7 and col. 5, lines 18-30); a second sensor array connected to said computer comprising sensors capable of producing a second response in the presence of a physical stimulus, wherein each sensor of said second sensor array is an optical sensor, a mechanical sensor, a radiation sensor, a thermal sensor or combination thereof (see col. 3, line 60 to col. 4, line 9); a computer readable algorithm for execution by the computer for identifying the analyte, the computer readable algorithm comprising instructions for comparing the first response and the second response with a known

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response, and instructions for identifying an unknown analyte (see col. 2, lines 54-63; col. 10, line 56 to col. 11, line 34; and col. 12, line 55 to col. 13, line 21).

Lewis et al. do not disclose the computer being connected to the first sensor array and second sensor array via the network.

Goodman et al. teach the computer being connected to the first sensor array and second sensor array via the network (see col. 4, lines 44-61).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lewis et al.'s system to include the computer being connected to the first sensor array and second sensor array via the network, as taught by Goodman et al., in order that various components of the analyte detection system residing in different locations can be linked by a network or other communications link to transfer the sensor data for further process (see col. 4, lines 55-57).

With respect to claims 23 and 25, Lewis et al. also disclose a sensing system for identifying an analyte, the system comprising: a computer (computer shown on Fig. 1C); a first sensor array connected to said computer comprising sensors capable of producing a first response in the presence of a chemical stimulus (see col. 1, line 57 to col. 2, line 7 and col. 5, lines 18-30); a second sensor array connected to said computer comprising sensors capable of producing a second response in the presence of a physical stimulus, wherein each sensor of said second sensor array is an optical sensor, a mechanical sensor, a radiation sensor, a thermal sensor or combination thereof (see col. 3, line 60 to col. 4, line 9); a computer readable algorithm for execution by the computer for identifying the analyte, the computer readable algorithm comprising instructions for comparing the first response and the second response with a known

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response, and instructions for identifying the unknown analyte (see col. 2, lines 54-63; col. 10, line 56 to col. 11, line 34; and col. 12, line 55 to col. 13, line 21 ).

Lewis et al. do not disclose the computer being connected to the first sensor array and second sensor array via the network.

Goodman et al. teach the computer being connected to the first sensor array and second sensor array via the network (see col. 4, lines 44-61).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lewis et al.'s system to include the computer being connected to the first sensor array and second sensor array via the network, as taught by Goodman et al., in order that various components of the analyte detection system residing in different locations can be linked by a network or other communications link to transfer the sensor data for further process (see col. 4, lines 55-57).

As to claims 2 and 20, Lewis et al. also disclose algorithm selecting the most relevant sensor modality in the first and the second array to identify the analyte (see col. 6, lines 26-42 and col. 11, lines 16-35).

As to claims 3, 5, and 21, Lewis et al. also disclose each sensor of said first sensor array being a member selected from the group consisting of a bulk conducting polymer film, a semiconducting polymer sensor, a surface acoustic wave device, a fiber optic micromirror, a quartz crystal microbalance, a conducting/nonconducting regions sensor, a dye impregnated polymeric coatings on optical fiber and combinations thereof (see col. 4, lines 21-39).

As to claims 4, 6, and 22, Lewis et al. also disclose each sensor of said second sensor

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array being a member selected from the group consisting of an optical sensor, a mechanical sensor, a radiation sensor, a thermal sensor and combinations thereof (see col. 1, lines 54-57 and col. 3, line 60 to col. 4, line 9)

As to claims 9-11, Lewis et al. do not disclose said wireless communications being implemented using communications technologies selected from a member of a group consisting of infrared technology, satellite technology, microwave technology and radio wave technology.

Goodman et al. teach said wireless communications being implemented using communications technologies selected from a member of a group consisting of infrared technology, satellite technology, microwave technology and radio wave technology (see col. 4, lines 55-61 and col. 29, lines 34-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lewis et al.' system to include wireless communication being implemented using radio wave technology, as taught by Goodman et al., because with recently developed communication technologies and increasing communication needs, network communication apparatuses have become popular in order that data can be analyzed by a central processing unit at a remote location.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-11 and 19-25 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

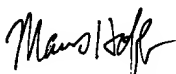
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol S. Tsai whose telephone number is (703) 305-0851. The examiner can normally be reached on Monday-Friday from 7:30 AM to 4:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (703) 308-1677. The fax number for TC 2800 is (703) 308-7382. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2800 receptionist whose telephone number is (703) 308-1782.

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In order to reduce pendency and avoid potential delays, Group 2800 is encouraging FAXing of responses to Office actions directly into the Group at (703) 308-7382. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 2800 will be promptly forwarded to the examiner.

Carol S. W. Tsai

11/29/03

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800